



**Author Name:** Swapna Reddy, J.D.

**University:** Boston University

**Program of Study:** M.P.H.

**Abstract Title:** CDC's Opt-Out Approach to Increase HIV Testing for Pregnant Women and the Conflict in Massachusetts

**Abstract:** Perinatal HIV transmission, which is passing the virus to a child during pregnancy, delivery, or breastfeeding, accounts for 91% of U.S. pediatric AIDS cases. An estimated 40% of mothers of HIV infected infants were not diagnosed prior to delivery. Current testing allows women with unknown HIV status during prenatal care to learn their status quickly and obtain treatment. Treatment with short-course antiretroviral (ARV) prophylaxis can reduce the risk of HIV transmission to less than 2%.

Continued perinatal transmission illustrates the need to improve strategies for HIV testing and treatment. In an effort to do so, the CDC endorses the “Opt-Out” approach, in which pregnant women are notified that an HIV test will be routinely included in a standard battery of prenatal tests, with the option to refuse testing.

Upon conducting a legal analysis, implementing the CDC’s “Opt-Out” approach in Massachusetts appears difficult because the existing law on informed consent for HIV testing is a barrier to the recommended policy. Massachusetts General Law Chapter 111: Section 70F states testing cannot be done without first obtaining and agreeing to a written informed consent form and should be distinguished from written consent for the release of any other medical information.

HIV testing on pregnant women is a highly salient topic with significant public health and legal implications. A proposed solution would modify the Massachusetts law to adopt the “opt-out” approach, but require pre-test HIV counseling by a physician. This would increase the rate of HIV testing, leading to treatment, as well as maintaining the spirit of the informed consent doctrine.